KAREN P. HEWITT
United States Attorney
DOUGLAS KEEHN
Assistant U.S. Attorney
California State Bar No. 233686
Federal Office Building
880 Front Street, Room 6293
San Diego, California 92101-8893
Telephone: (619) 557-6549

Attorneys for Plaintiff
United States of America

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SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. DIANA NATIVIDAD HARO, Defendant.	Criminal Case No. 08CR2033-BTM **STIPULATION OF FACT AND JOINT MOTION FOR RELEASE OF MATERIAL WITNESS AND ORDER THEREON**

IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Douglas Keehn, Assistant United States Attorney, and defendant DIANA NATIVIDAD HARO, by and through and with the advice and consent of defense counsel, Candis Mitchell, Federal Defenders of San Diego, Inc., that:

1. Defendant agrees to plead guilty to a one-count Superseding Information charging defendant with a non-mandatory minimum count of Transportation of Illegal Aliens, in violation of 8 U.S.C. §1324(a)(1)(A)(ii).

2. Defendant acknowledges receipt of a plea agreement in this case and agrees to provide the signed, original plea agreement to the Government not later than July __, 2008 before the disposition date set by the Court.

3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or before July 31, 2008.

4. The material witnesses in this case, Gabino Alvaro Martinez-Juarez, Roberto Carlos Romero-Cordova, and Sarafin Vargas-Medel:

a. Are aliens with no lawful right to enter or remain in the United States;

b. Entered or attempted to enter the United States illegally on or about May 25, 2008;

c. Were found in a vehicle driven by Defendant and Defendant knew or acted in reckless disregard of the fact that the material witnesses were aliens with no lawful right to enter or remain in the United States;

d. Were paying or having others pay on their behalf between approximately $2,000 and $3,500 to others to be brought into the United States illegally and/or transported illegally to their destinations therein;

e. Defendant knew or acted in reckless disregard of the fact that Gabino Martinez-Juarez, Roberto Carlos Romero-Cordova, and Sarafin Vargas-Medel were aliens with no lawful right to enter or remain in the United States; and,

f. Gabino Martinez-Juarez, Roberto Carlos Romero-Cordova, and Sarafin Vargas-Medel may be released and remanded immediately to the Department of Homeland Security for return to their country or countries of origin.

5. After the material witnesses are ordered released by the Court pursuant to this stipulation and joint motion, if Defendant does not plead guilty to the charge set forth above, for any

reason, or thereafter withdraws his guilty plea to that charge, Defendant agrees that in any proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

a. The stipulated facts set forth in paragraph 4 above shall be admitted as substantive evidence;

b. The United States may elicit hearsay testimony from arresting agents regarding any statements made by the material witnesses provided in discovery, and such testimony shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest of an unavailable witness; and,

c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004), "testimonial" hearsay statements are not admissible against a defendant unless that defendant confronted and cross-examined the witness(es) who made the "testimonial" hearsay statements, Defendant waives the right to confront and cross-examine the material witness(es) in this case.

6. By signing this stipulation and joint motion, Defendant certifies that Defendant has read it (or that it has been read to Defendant in Defendant's native language). Defendant certifies further that Defendant has discussed the terms of this stipulation and joint motion with defense counsel and fully understands its meaning and effect.

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Based on the foregoing, the parties jointly move the stipulation into evidence and for the immediate release and remand of the above-named material witness to the Department of Homeland Security for return to his country of origin.

It is STIPULATED AND AGREED this date.

Respectfully submitted,

KAREN P. HEWITT
United States Attorney

Dated: 17 July 2008

Douglas Keehn
Assistant United States Attorney

Dated: 11 July 2008

Candis Mitchell
Candis Mitchell
Defense Counsel for Defendant,
Diana Natividad Haro

Dated: 11 July 2008

Diana Natividad Haro
Defendant

O R D E R

Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness be released and remanded forthwith to the Department of Homeland Security for return to his country of origin.

SO ORDERED.

Dated: 7/17/08

United States District Judge